

AGENCY OF NATURAL RESOURCES POLICY

USES OF STATE LANDS

Public Service Board
Lamoille County Project
Docket No. 7032
Exhibit No. ANR Rebuttal SB-1
Admitted _____ Date _____

Philosophy:

State lands are capable of serving a great many uses by the public, in all seasons, including recreation, environmental education and research, extraction of natural resources, road travel for a variety of reasons, spiritual renewal, and others. Many of these uses are compatible with the character, resource values, and/or other public uses of the particular state lands on which they are conducted. However, others may be inappropriate in some instances, in certain places, or always. In those instances, uses may be denied, or permitted only under stringent conditions, to insure that (1) natural resources and associated values are not destroyed or degraded, (2) they are in keeping with existing public uses and original intent of the acquisition, (3) they are not solely for private gain (that is, the public must benefit from the uses, as well), and (4) individuals participating in group events/activities for which a fee is charged are protected from any liability actions related to the events/activities.

Since population, development pressures, and recreational demands are expected to increase in Vermont, state lands will be under increasing pressure to serve more needs and uses. Therefore, proposed new or expanded uses must be carefully scrutinized, justified, and assessed for their impact on state land.

Policy:

General Criteria for Use

Uses of state lands and waters under the jurisdiction of the Agency of Natural Resources [those owned by the State of Vermont and managed or controlled by the Department of Forests, Parks and Recreation (FPR), Department of Fish and Wildlife (FW), and Department of Environmental Conservation (DEC)] are generally appropriate if they meet **all** of the following criteria:

- (1) They serve the broad "public good," as defined and expressed by state statutes, rules, and/or regulations.
- (2) They are within the missions, goals, and objectives of the Agency and Departments, as expressed in their strategic plans.
- (3) They are compatible with the overall management plan objectives for the particular parcels in question.

- (4) They do not permanently exclude, eliminate, degrade, or conflict with other established and accepted public uses of an area, including legal public hunting, fishing, and trapping.
- (5) They protect or avoid critical natural resources or resource values.
- (6) They are not specifically prohibited by law, rule or regulation.

Note: Under a special Memorandum of Understanding (MOU) between FPR and DEC (dated April 26, 1995), all DEC lands are administered and managed by FPR, according to FPR policies and procedures.

When a Permit is Needed

Most uses do not require formal written authorization, i.e., a "permit" (see Appendix A.) However, some activities and events, while legally and environmentally permissible, may affect sites/natural resources or exclude other public uses for varying periods of time (see Appendix B.) Such activities and events, in addition to meeting criteria (1) - (6) above, may be conducted **only** with formal written authorization by the Department having jurisdiction. The authorization is in the form of a special use permit, license, or lease, depending on the type of activity, its duration, and its potential effect on the land, resources, and public using the property.

Generally, a special use permit, license, or lease is required for any use of state land when the activity:

- (1) is organized or publicized,
- (2) involves a fee (charged to participants),
- (3) alters a site or alters/removes natural resources, or
- (4) may conflict with other established, traditional uses, such hiking, cross-country skiing, scientific research, hunting, etc.

Types of Permits: Definitions, Applicability, and Administration

Special use permits, licenses, and leases are non-transferable written documents. They must (1) describe the approved use and all imposed conditions and (2) satisfy criteria and guidelines described in this policy.

Appendix B identifies activities/events requiring each type of permit and gives related specific information.

Special Use Permit:

Definition: A formal written authorization for short-term, low-impact use by individuals and groups, requiring no or only minimal development and no permanent structures.

Applicability: The proposed use meets the following conditions:

- (a) The term of the permit shall be for one year or less.
- (b) Within that term, no activity shall dominate or exclude all other public uses of the land for periods of more than one week at a time.
- (c) Granting of a permit does not in any way presume annual renewals. The proposed activity must be feasible without the necessity of repeated renewal. If the activity is not legitimately possible without the guarantee of annual renewal, a special use permit is inappropriate.
- (d) It will not involve a permanent structure or any permanent significant change to the land. Minimal timber cutting, skidding, landing, and hauling especially for temporary rights-of-way may be exempted from this constraint. Any permitted timber removal will be undertaken according to a cutting plan and stumpage payment approved by the District Forest Manager (FPR lands) or District Wildlife Biologist (FW lands).
- (e) Any event or short term special use for which an open invitation to the general public is offered shall require a special use permit.

Administration: Prepared and issued by the designated District Permit Coordinator, under the direction of the District Forest Manager, Regional Park Manager, and/or District Wildlife Biologist, as appropriate.

License:

Definition: A formal written authorization for certain longer term activities that may allow the user some interest in the land but does not transfer contractual, vested, or property rights.

Applicability: The proposed use will not permanently exclude all other public uses of the land.

Administration: Prepared by District Permit Coordinator, under the direction of the District Forest Manager, Regional Park Manager, and/or District Wildlife Biologist, as appropriate, and approved by the respective Commissioner.

Lease:

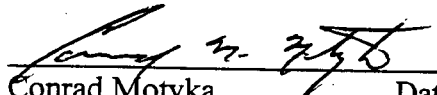
Definition: A formal written agreement between the state and a party for the long-term use of state land and involving the transfer of rights.

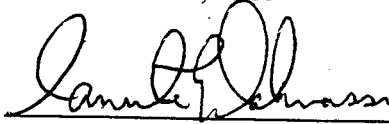
Applicability: Granted only in special, rare circumstances. On FPR lands, leases must be approved by the Vermont Legislature. On FW lands, an approval route is detailed in 10 V.S.A. Section 4147.


Administration: Prepared by the Lands Administrator and, after approval of the Vermont General Assembly (FPR lands) or that required in 10 V.S.A. Section 4147 (FW lands), signed by the respective Commissioner.

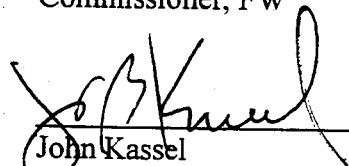
Procedure for Implementation:

Implement in accordance with FPR Procedure #29.1- Licenses, Leases, and Special Use Permits.


Conrad Motyka
Commissioner, FPR
Date 7/26/99


Canute Dalmasse
Commissioner, DEC
Date 8/11/99


Ronald Regan
Commissioner, FW
Date 7/30/99


John Kassel
Secretary, ANR
Date 8/23/99

Appendix A

WRITTEN PERMIT NOT REQUIRED

- The following recreational activities by individuals *do not require a Special Use Permit, License, or Lease, though special conditions or limitations may apply, as identified. Organized groups, however, may need a permit for these activities (see criteria, p. 2).*
- A day-use fee may be charged for an activity if it requires entry to a state park or use of a facility of a lessee of state land. Otherwise, no fee is charged.
- All activities are at the risk of the individuals undertaking them.
- Uses not listed below will be considered on a case-by-case basis, according to this policy.
- References cited here are available from the Central Office or District/Regional Offices of the Departments/Agency.

All-Terrain Vehicles (ATVs): (Defined as "any motorized recreational vehicle, two or more wheels, designed for off-highway use, except snowmobiles.") Allowed on all frozen public bodies of water, except Amity Pond (Windsor County), Levi Pond (Caledonia County), Marsh Pond (Rutland County), Bear Pond (Lamoille County), Sterling Pond (Lamoille County), and Lake of the Clouds (Lamoille County). Must be legally registered. Prohibited on all state lands, roads, trails, and forest highways. See Agency of Natural Resources Rule *State Lands Designated for Use by All Terrain Vehicles*, in booklet "All Terrain Vehicles Operator's Manual," published by Agency of Transportation, October 1986. See also FPR Policy #1 - All-Terrain Vehicles.

Boating (including canoeing and kayaking): Motor boats must be legally registered. Electric motors only (with horsepower limits) at Adam's Reservoir (Woodford State Park), Half Moon Pond (Bomoseen State Park), Emerald Lake, and Lake Shaftsbury. Use of personal watercraft (jet skis) from state parks must be in accordance with Water Resources Board rules.

Camping:

Primitive - Regulated via Agency rules adopted to govern this activity on designated lands listed in "Guide to Primitive Camping on State Lands."

State Park - In developed campgrounds. Parks fees and regulations are in "Vermont Department of Forests, Parks and Recreation Rules and Regulations for Use of Recreational Areas."

Fishing: Valid Vermont fishing license and compliance with prevailing regulations are required. See "Digest of Fish and Wildlife Laws."

Hang Gliding: Governed by Agency rule and allowed presently only at Burke Mountain and Mt. Ascutney. Waiver of liability required. Other special conditions apply.

Hiking:

Individual, by Foot - Care should be taken in fragile ecological areas. Some trails may be temporarily closed for environmental (e.g., mud season), safety, or other reasons. See FPR Policy #15 - Trail Closure.

With Pack Animals - Restricted to trails and roads designated in FPR Policy #4 - Mountain Bicycles, Horseback Riding, and Pack Animals.

Horseback Riding: Restricted to trails and roads designated in FPR Policy #4 - Mountain Bicycles, Horseback Riding, and Pack Animals.

Hunting (Trapping): Valid Vermont hunting (trapping) license and compliance with prevailing regulations are required. Prohibited in developed recreation areas May 1 - October 15, within 500 feet of any state park building, and in certain other designated areas. See "Digest of Fish and Wildlife Laws."

Ice and Rock Climbing: May be restricted in certain areas and/or at certain times of year, due to fragile ecological areas or seasonal presence of endangered species (e.g., peregrine falcons).

Mountain Bicycling: Restricted to trails and roads designated in FPR Policy #4 - Mountain Bicycles, Horseback Riding, and Pack Animals.

Skiing:

Cross-Country (Nordic) - Allowed generally. May be restricted in certain areas due to potential effects on wildlife.

Downhill (Alpine) - On several leased lands. Fees for use of lifts established by lessee. Allowed generally if lifts not used.

Snowmobiling: Governed by Agency Rule *Snowmobiling on State-Owned Lands* (in booklet entitled "Vermont Snowmobile Operator's Manual," Agency of Transportation, 1997). Allowed only on designated marked trails (and, in state forests and parks only, on unplowed roads), or prohibited as specified in the Rule. Snowmobiles must be legally registered.

Swimming: Allowed generally. May be restricted to designated areas in developed state parks.

Appendix B

WRITTEN PERMIT REQUIRED

- Uses or activities not identified here will be considered on a case-by-case basis.
- * = Separate or additional FPR policy applies.
- References cited here are available from the Central Office or District/Regional Offices of the Departments/Agency.

SPECIAL USE PERMIT REQUIRED:

Recreational, Cultural, or Other Special Events: Organized races, rallies, festivals, contests, plays, concerts, performances, etc. If applicable, see FPR Policy #2 - Commercial Advertising.

LICENSE REQUIRED:

Agricultural Uses: Examples -- grazing, pasturing, growing hay or row crops, etc.

Electronic Communication Facilities*: Special conditions apply -- see FPR Policy #5 - Mountaintop Communications Facilities.

Guided Recreational Activities: Any activity (hikes, snowmobile tours, workshops, ski tours, lama treks, etc.) for which a fee is charged to clients. Special conditions may apply, depending on the type of activity.

Housing Rentals: For use of apartments or houses on state land which are not required for Department use.

Maple Sugaring: No new licences will be issued for maple sap gathering; only active existing licenses may be renewed and they may not be transferred to other parties.

Research (Scientific): Fee may be waived under certain circumstances. Issuance of licenses for scientific research must satisfy these additional considerations:

- (1) Scientific research is not to become an exclusive use of the land, unless designated by the Commissioner.

- (2) The activity must be compatible with the Long Range Management Plan for the parcel.
- (3) The study area must be agreed to by the appropriate District Forest Manager, Regional Park Manager, and/or District Wildlife Biologist, and be delineated both in the field and on a map.
- (4) The licensee must clearly articulate expectations of the state, amount of area needed, length of the study period, activities incompatible with the research, potential long-term impacts of the research on other uses of the land, and other pertinent issues.
- (5) The appropriate District Forest Manager, Regional Park Manager, and/or District Wildlife Biologist via their supervisor(s), must recommend approval of the research to the Commissioner by means of a draft license document.

Trail Construction or Reconstruction (hiking, cross-country ski, snowmobile): No new trails can be constructed unless a written agreement is in effect.

Utility Easements*: Special conditions apply -- see FPR Policy #16 - Utility Easements.

Vendors*: Special conditions apply -- see FPR Policy #17 - Vendors. If applicable, see also FPR Policy #2 - Commercial Advertising.

Water Rights: Generally, no further long-term water rights will be granted. Where reasonable and agreed upon, those currently in effect and/or temporary needs under extenuating circumstances will be provided for by license.

LEASE REQUIRED:

Downhill Ski and Facilities: Special legal conditions apply.

Mineral Extraction: Governed by Vermont Statutes -- 10 VSA §2606(c) and 29 VSA §308.

Roads Serving Private Property: Special conditions may apply.

OTHER PERMIT REQUIRED

Logging: Handled by contract and legal bid specifications and conditions.

Travel Rights-of-Way (other than temporary): Generally prohibited. Where acceptable, handled by easement.